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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/838,378 | 04/19/2001 | Don Rutledge Day | AUS920010002US1 | 9253 |

35525 7590 08/29/2008

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| EXAMINER | |
|---|---|
| PILLAI, NAMITHA | |
| **ART UNIT** | **PAPER NUMBER** |
| 2173 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 08/29/2008 | ELECTRONIC |

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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*Ex parte* DON RUTLEDGE DAY and
RABINDRANATH DUTTA

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Appeal 2008-0136
Application 09/838,378
Technology Center 2100

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Decided: August 27, 2008

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Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and
JEAN R. HOMERE, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-6, 8-14, 16-21, and 23-25. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

## BACKGROUND

Appellants' invention relates to a method, apparatus, and program for associating successive repointing of a browser's load function with navigational links in web pages. (Spec. 1.) The present invention provides a mechanism for associating a locational affinity between a series link and a cursor or other control to allow consistent paging through a series of pages without having to scroll the page and physically relocate the cursor over the link. A web browser scans for key phrases or words in links, such as "next," "previous," "more," and "back." The browser may scan the link text, uniform resource locators, graphic filenames, and alt text associated with graphics. When a series link is identified, such as a link to a "next" or "previous" page, the browser may automatically scroll the page and reposition the mouse cursor over the link. The browser may also provide other series link controls, such as a right-click menu that provides menu items associated with next page and previous page links. Furthermore, the browser may provide buttons in a toolbar for navigation between next page and previous page links. Preferences may be defined by the user for customizing the key words and interface options in order to identify series links. (Spec. 4.)

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

> 1. A method, in a data processing system, for navigation between pages within a series of pages, comprising:
>
> receiving a document, wherein the document comprises a current page within a series of pages and wherein each page within the series of pages includes a link to a contiguous page within the series of pages;

responsive to receiving the document, identifying a series link in the current page, wherein the series link references a contiguous page within the series of pages; and

responsive to a series link being identified in the current page, automatically associating a series link control with the series link, wherein activation of the series link control results in navigation to the contiguous page referenced by the series link.

## PRIOR ART

The prior art reference of record relied upon by the Examiner in rejecting the appealed claims is:

| | | |
|---|---|---|
| Wittenburg | US 6,515,656 B1 | Feb. 4, 2003 |

## REJECTIONS

Claims 1-6, 8-14, 16-21, and 23-25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Wittenburg.

Rather than reiterate the conflicting viewpoints of the Examiner and Appellants regarding the above-noted rejection, we refer to the Examiner's Answer (mailed Apr. 6, 2007) for the reasoning in support of the rejections, and to Appellants' Brief (filed Dec. 16, 2004) and Reply Brief (filed Apr. 27, 2007) for the arguments thereagainst.

## OPINION

In reaching our decision in this appeal, we have carefully considered Appellants' Specification and claims, to the applied prior art reference, and

to the respective positions articulated by Appellants and the Examiner. As a consequence of our review, we determine the following.

"[A]nticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim . . . ." *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.,* 730 F.2d 1452, 1458 (Fed. Cir. 1984)). "[A]bsence from the reference of any claimed element negates anticipation." *Kloster Speedsteel AB v. Crucible, Inc.,* 793 F.2d 1565, 1571 (Fed. Cir. 1986).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. We determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a

claim invalidates that claim by anticipation." *Perricone v. Medicis Pharm. Corp.,* 432 F.3d 1368, 1375-76 (Fed. Cir. 2005) (citation omitted).

With respect to independent claim 1 Appellants argue the claim language "receiving a document, wherein the document comprises a current page within a series of pages and wherein each page within the series of pages includes a link to a contiguous page within the series of pages" is not taught by Wittenburg.

We agree with Appellants that the teachings of Wittenburg do not expressly teach wherein each page within that document includes a link to a contiguous page within the series of pages. While Wittenburg does teach usage of the link to contiguous pages, the links are not expressly taught to be within the received document. Therefore, Wittenburg does not expressly teach the first limitation of independent claim 1. Furthermore, the method of Wittenburg does not further teach responsive to a step of receiving that document, identifying a series link in the current page. While Wittenburg teaches a user can actuate a series link, it is not taught to be responsive to receiving the document. Therefore, Wittenburg does not teach the second step of independent claim 1.

Furthermore, Wittenburg does not teach responsive to the series link being identified in the current page, automatically associating a series link control with the series link. Here, automatically associating the series link control with the series link is taught in the Specification to be moving the cursor to the respective link control. Clearly, Wittenburg does not teach this automatic association of the link control with the series link. Therefore, we do not find that the Examiner has set forth a prima facie case of anticipation of independent claim 1 over the teachings of Wittenburg.

Similarly, we find independent claims 9, 17, 24, and 25 contain similar limitations which the Examiner has not shown to be clearly taught by the teachings of Wittenburg. Therefore, we cannot sustain the rejection of independent claims 1, 9, 17, 24, and 25 and their respective dependent claims 2-6, 8, 10-14, 16, 18-21, and 23.

## CONCLUSION

To summarize, we have reversed the rejection of claims 1-6, 8-14, 16-21, and 23-25 under 35 U.S.C. § 102(e).

## REVERSED

APJ Initials:
JLD
HBB

ce

Homere, *Administrative Patent Judge, dissenting.*

I write separately to voice my disagreement with the majority's holding that the *Examiner has not shown* that Wittenburg anticipates independent claim 1. Particularly, the majority finds that the Examiner has not made a prima facie case of anticipation since the *Examiner has not shown* that Wittenburg teaches the limitation of receiving a document wherein each page of said document includes a link to a contiguous page within a series of pages. Because of this finding, the majority reverses the Examiner's prior art rejection of claims 1 through 6, 8 through 14, 16 through 21, and 23 through 25. From that decision, I respectfully dissent.

The majority opinion states in relevant part:

> We agree with Appellants that the teachings of Wittenburg do not expressly teach wherein each page within that document includes a link to a contiguous page within the series of pages. *While Wittenburg does teach usage of the link to contiguous pages, the links are not expressly taught to be within the received document.* Therefore, Wittenburg does not expressly teach the first limitation of independent claim 1. Furthermore, the method of Wittenburg does not further teach responsive to a step of receiving that document, identifying a series link in the current page. *While Wittenburg teaches a user can actuate a series link, it is not taught to be responsive to receiving the document.* Therefore, Wittenburg does not teach the second step of independent claim 1.

(Emphasis added.)

At the outset, I would like to highlight my disagreement with the majority's finding that the *Examiner has not shown* that Wittenburg teaches the cited limitations. Our reviewing Court has held that Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's

position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (indicating that on appeal to the Board, an Appellants can overcome a rejection by showing insufficient evidence of *prima facie case* or by rebutting the *prima facie* case with evidence.) (citing *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)). In the present appeal to be Board, the Examiner's rejection has addressed all the limitations of independent claim 1. (Ans. 3.) Further, the Examiner has discussed in great substance her rationale for finding that Wittenburg anticipates independent claim 1. (Ans. 4-8.) In my view, the Examiner has adequately established her prima facie case of anticipation. Therefore, consistently with these precedents, I would place the burden on Appellants to show that the Examiner has erred in making the cited finding.

Further, while the majority appears to acknowledge that Wittenburg teaches a plurality of links to navigate between contiguous pages within a document, the majority finds that these links not to be within the document. Rather, the majority finds the disclosed links to be part of the browser. In making this finding, the majority focuses exclusively on Wittenburg's disclosure of the browser links (66) in Figure 6. However, the majority does not give much weight to the textual portions in column 1 of Wittenburg upon which the Examiner also relies to establish her prima facie case. Particularly, Wittenburg states the following:

> Slide shows represent another technique that may be used to scan through information. With a slide show, images and text are generally presented one screen at a time with backward and forward controls.

(Col. 1, ll. 62- 65.)

I agree with the Examiner that one of ordinary skill in the art would readily recognize that in the afore-cited text, Wittenburg discloses a plurality

of slides in a slide show document, each individual slide having a forward control and a backward control to allow a user to navigate to a contiguous page. Further, the ordinarily skilled artisan would appreciate that the disclosed controls are automatically associated with the corresponding links displayed on each slide to facilitate the navigation to a contiguous page. Additionally, the ordinarily skilled artisan would also appreciate that upon receiving the slides, the user would have to necessarily identify the controls in order to navigate to the contiguous pages. I am therefore satisfied that Appellants have not shown that the Examiner erred in finding that Wittenburg anticipates independent claim 1. Thus, I cannot agree with the majority's reversal of the Examiner's rejection of the cited claims. Accordingly, I would affirm the Examiner's prior art rejection of independent claim 1 as being anticipated by Wittenburg.

JRH

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